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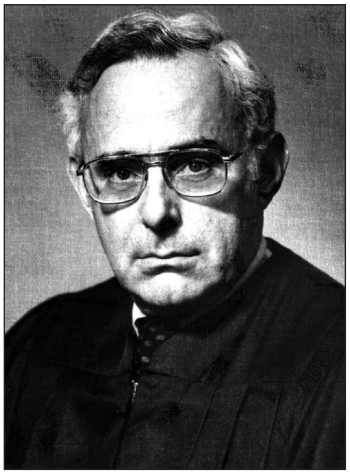
The Court Legacy

Winding Up *Bradley v. Milliken*

By U.S. District Judge Avern Cohn and
John P. Mayer

Editor's Note: This is the fourth in a series of articles on Bradley v. Milliken, the Detroit school desegregation case. It is based substantially upon a talk given by Judge Cohn at the University of Michigan on October 25, 1989. Because the text is based on the talk which was not footnoted, it will read very much like an oral history. It does, however, cast new light in areas where no published materials exist. The first article in the series appeared in the May 2008 issue of The Court Legacy, the second in the September 2008 issue, and the third in the February 2009 issue. These articles may be viewed on the Court Historical Society website at http://www.mied.uscourts.gov/historical/



U.S. District Judge Avern Cohn, who was one of the three-judge panel assigned to preside over *Bradley v. Milliken,* beginning in August 1980 and continuing until November 1985 when he became the sole judge assigned to the case until its termination in February 1989.

As reported in the third article in this series, plaintiffs' lawyer NAACP General Counsel Thomas Atkins had been trying since 1976 to get Judge Robert E. DeMascio disqualified from further participation in *Bradley v. Milliken.* Atkins alleged improper *ex parte* contacts with lawyers for the teachers union and the Board of Education.

In January 1977, Judge DeMascio issued a detailed opinion refuting plaintiffs' allegations of partiality and denying their motion for recusal. He referred the question of whether there existed "the appearance of partiality" to Chief Judge Damon J. Keith "for resolution by assignment to another judge of this court." Chief Judge Keith ordered the Clerk to assign the issue to a judge by blind draw, and it went to Judge James P. Churchill. After giving all parties the opportunity to be heard, in April 1977, Judge Churchill issued an opinion finding that "there is no appearance of any partiality whatsoever on the part of Judge Robert E. DeMascio in this matter."

The issue of Judge DeMascio's alleged partiality did not come to a head until the Court of Appeals issued an opinion in April 1980, 620 F.2d 1143, suggesting, but not ordering, that Judge DeMascio recuse himself. In August 1980, Judge DeMascio recused himself from further participation in *Bradley v. Milliken.*

After receiving Judge DeMascio's order recusing himself, Chief Judge John Feikens convened a special meeting of the judges for the purpose of reassignment of the case. The minutes of the meeting record that the judges unanimously commended Judge DeMascio "for his earnest efforts with this lawsuit, over the past five years."

The following day, Chief Judge Feikens entered an Order of Reassignment based on the actions of the judges at the meeting. At the urging of Judge James P. Churchill, out of concern that the future of the case might involve cross-district busing, a panel of three judges was selected by blind draw to handle the case. There was precedent for a non-statutory three-judge court to handle an exceptional case.

THE COURT LEGACY
John P. Mayer, Editor

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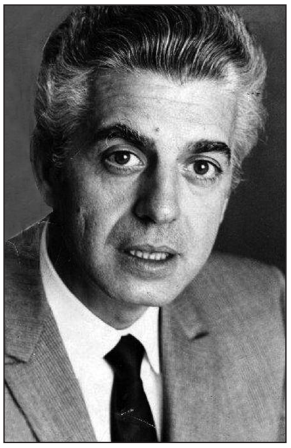


Credit: Detroit Free Press File Photo.

U.S. District Judge Robert E. DeMascio, who presided over *Bradley v. Milliken* beginning after the death of Judge Stephen J. Roth in July 1974, until he recused himself in August 1980 and the case was reassigned to a three-judge panel consisting of Judges John Feikens, Avern Cohn and Patricia J. Boyle.

As senior judges, Thomas P. Thornton and Ralph M. Freeman were excluded from the draw. Judges James Harvey and Stewart A. Newblatt were excluded because their official stations were in Bay City and Flint. Judge Ralph B. Guy, Jr. was excluded because he had participated in the case at an earlier stage as U.S. Attorney. The remaining nine judges were ranked in groups of three by seniority with one judge being selected by blind draw from each group. The panel drawn consisted of Chief Judge Feikens, Judges Avern L. Cohn and Patricia J. Boyle.

The three judges met promptly to analyze the problems facing them. The case was ten years old. A remedy was in effect. The District had gone from 60% black to 87% black during the decade of the Seventies. And there was a 1978 order from the Court of Appeals, which had never been implemented, telling Judge DeMascio to reconsider the exclusion of regions 1, 5 and 8 from the busing plan. There were unresolved issues relating to Hispanic students, and the educational components to which Judge DeMascio had devoted so much time and effort remained in question and, to a great extent, unimplemented.

The members of the panel were of like mind in the view that, as with any complex litigation, their earliest sessions should be in chambers, not in the courtroom. This was in marked contrast to Judge DeMascio who did virtually everything in open court on the record. The three-judge panel began a series of conferences with the lawyers, asking them, first, to educate them on the background and history of the case and, second, to offer their views on the unresolved issues.

[From here on, all words are Judge Cohn's unless in italics or enclosed in brackets. Quotation marks (unless Judge Cohn is quoting from an order) or indentation will not be used.]

After about three meetings which were stand-offs, because nobody would talk because they were all playing close, we eventually got an agreement that we could talk to each group of lawyers outside the hearing of the others, *ex parte*. Some of them thought that we were going to force them into something they did not want. It is very difficult to resist pressure from a judge in chambers. When a judge says I really think you ought to do something, and a lawyer wants to say no, there are very few lawyers who can stand up against three judges.

By February 1981, the lawyers agreed on a new busing order, a new busing plan, a new busing pattern, and they further agreed that it would be self-executing year-after-year. That's what would happen at the end of each school year, the School Board would propose amendments to the busing plan, file them with the Court, and if nobody objected within thirty days, that was the busing plan for the new school year. The judges did not have anything to do with it. They were only busing about 25,000 students at the time, and about 12,000 of those would have been bused in any event.

Next, the three judges had to deal with unresolved issues relating to the educational components: reading, in-service training, testing, counseling and guidance, the Student Code of Conduct, school community relations, vocational education and bilingual education. Here, the basic problem was a dispute over money. The School Board insisted that the State owed it large amounts of money for the cost of the educational components; the State denied that it owed any money. The State and the School Board could not agree on a formula. After lengthy negotiations, which the judges were not involved in, the parties finally agreed how much the State owed the School District, and how the financing of the educational components would be implemented through the 1987-1988 school year. The amounts were agreed on so that funding would be self-executing. This settlement had effects which would reverberate for seven years.

A citizens monitoring commission had come into formal existence in October 1975, when Judge DeMascio accepted and adopted a plan submitted by the State Superintendent of Public Instruction.

The stated purposes of the Monitoring Commission were to: (1) audit the efforts of the Detroit public school system as it implemented the desegregation program, (2) inform the community, and (3) advise the Court.

[In his remarks to the University of Michigan students, Judge Cohn reminded his audience:] You must remember that Feikens, Boyle and I each before we had come to the bench had been involved in politics, and we had some understanding of the political process. We understood that having an elected School Board and an appointed citizens commission was just bad politics.

[As to the problem of oversight, Judge Cohn observed:] The parties agreed that there would be an overall review of the level of performance of the School Board by an outsider. The report of the review would be filed with the Court and if anyone had any objections or wanted any relief through the Court, they could then ask the Court. Thereafter, at the end of the school year, the School Board would file a report on its stewardship of the educational components, and after thirty days, the Monitoring Commission would comment, and if nobody came to the Court for anything, we did not have to do anything. So everything was now self-executing. We had built in this mechanism for resolving disputes or bringing matters to the Court.

[Finally, as to the issue of a sunset for *Bradley v. Milliken,* Judge Cohn noted:] At this point, we still had reading, in-service training, testing, counseling and guidance, the Student Code,

community relations, vocational education, and bilingual education. The parties also agreed that the in-service training and testing components would end with the '82-'83 school year, while the remaining components would go to '87-'88. This was the first time that anyone had agreed to a sunset of the Court's oversight of the remedy. We held a hearing, we held a press conference, we issued a press release, and everything was fine for a while.

In February 1982, we approved attorney fees for the parties. It was the first time anybody got any attorney fees since 1970. And, again, that was by agreement.

In June 1983, Judge Boyle resigned from the bench to accept appointment to the Michigan Supreme Court. Judge James P. Churchill was selected by blind draw to succeed her on the three-judge panel.

[Judge Cohn recalls:] Early in 1984, I began looking at the Student Code of Conduct and the School Community Relations Program as part of the remedy. The Board wanted a new School Community Relations Program. I concluded that the State Board of Education had ultimate authority over student discipline, and also the legislature had passed a law regarding School Community Relations Programs. We did not need these programs under our contract. We then terminated our responsibility over the code of conduct and over the School Community Relations Program. With the programs terminated we also abolished the Monitoring Commission.

When we did all this, we said: "Prompted by concern over the environment in which the Monitoring Commission appeared to be operating, we are of the opinion that implementation of the educational components of the remedial orders should be an integral part of the responsibilities of the Detroit Board of Education and viewed by it in the same manner as its other responsibilities. We are of the opinion that our oversight responsibility under the remedial orders and the manner in which courts usually operate to enforce such orders might distort the political processes which govern elected boards of education."

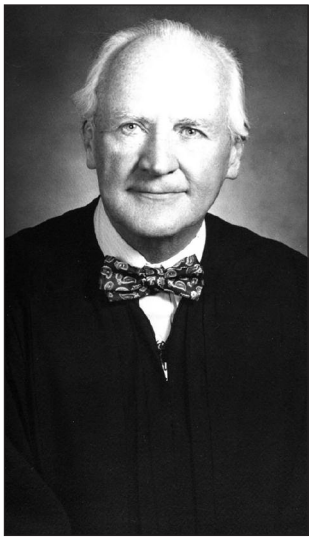
Now, we have gotten ourselves out from under the Student Code and the School Community Relations Program, and we no longer had a monitoring commission. As to the rest of the remedial components, they were part of the regular education programs, and were being funded by the State, in part.

We held a press conference to announce our actions over Judge Churchill's objection. He did not like press conferences. Interestingly, when one of the reporters at the end of the press conference asked a question Churchill looked at her and said, what do you want? You have three white judges running a black school district. I could have kissed him, because that's basically what was involved.

[The Detroit Federation of Teachers appealed these actions, in Judge Cohn's words:] because they felt that we had done violence to the agreement reached back in 1981, and we hadn't given proper notice. The Court of Appeals reversed us on the grounds that we didn't give proper notice that we were going to terminate the School Community Relations Program and the uniform Student Code of Conduct. We got the case back and were told to reinstate these two components. Since we had also abolished the Monitoring Commission we were told to reinstate it.

You can find our actions reported at 585 F.Supp. 348 (E.D. Mich. 1984), and the Court of Appeals' reversal at 772 F.2d 266 (6th Cir. 1985).

[At this time, Judge Churchill became the judge assigned to Bay City. Judge Cohn said:] Judges Feikens and Churchill agreed that I should have the case. I was willing to take it. I was now the sole judge on the case and the first judge to be assigned the case who was born and raised in Detroit and a graduate of the Detroit Public



Chief U.S. District Judge John Feikens, who was one of the three-judge panel assigned to preside over *Bradley v. Milliken* beginning after Judge DeMascio recused himself in August 1980 and continuing until November 1985.

Schools. And to me that had some emotional significance or subliminal significance since I had my roots in Detroit. Indeed, my father had been born in Detroit and was a graduate of the Detroit Public Schools.

In November 1985, I set a date in January, 1986 for a hearing on approval of a new Student Code of Conduct, and on reinstatement of the School Community Relations Program. The School Board then came in with a formal motion to abolish my jurisdiction over these two components on the grounds that they were now "doing it right."

I also issued an interim order saying that I had reasserted jurisdiction pending the hearing over the Student Code and the School Community Relations Program. I did not reinstate the Monitoring Commission. I appointed the State Superintendent of Public Instruction. Some people objected because the State Board of Education was a defendant in the case. Dr. Philip E. Runkel, State Superintendent of Education, came to Detroit to talk to me about monitoring. We talked. He put a staff member by the name of Dr. Ken Harris in place to do the actual monitoring.

Much earlier, the State legislature had tried to knock out the budget for monitoring, which would have destroyed the program. Judge Feikens and I got on the phone with a couple of legislators. I remember talking to the then Speaker of the House, and saying do you want us to hold you in contempt. He said, don't worry, don't worry, we'll take care of it, we'll take care of it, and they restored the money.

In January '86, the Board withdrew its request to terminate jurisdiction over the Student Code and the School Community Relations Program and agreed to wait until the '87-'88 year when these programs would die naturally. I do not recall whether I told them to do it, or they were wise enough to do it, but they did it.

In January '86, an argument developed over who was representing the plaintiff class. This was because the lawyer who had been general counsel of the NAACP was fired. The new general counsel came in and said, I'm the lawyer for the plaintiffs. And the former general counsel said I'm the lawyer. I looked back and figured out that it was the NAACP who represented the plaintiffs, and therefore whoever was general counsel was the lawyer. So, Tom Atkins was out, and Grover Hankins was in. There was an enormous difference in their personalities. There was a lot of antagonism between the two of them.

In February '86, I approved a new Student Code of Conduct; I reserved decision on whether long-term suspension of high school students as a penalty for misbehavior was proper. This is what the Detroit Federation of Teachers wanted. The Federation was attempting to gain an objective through the Court that it couldn't get through the collective bargaining process. Long-term suspension in the high school was a very controversial issue in Detroit because under long-term suspension, a student was thrown out of school. Many of the School Board members did not think that this was proper because the School District did not have a place for them; this is why the Board constantly resisted this result.

I said at the time, "The choice this Court must make on pending matters depends little on precedent and involves decision-making in areas where persons with academic training and experience have disagreement." Here they were bringing a dispute to me as a judge that I had no expertise in. Indeed, PhDs in education disagreed. I told them this, but there was no other mechanism there to deal with the problem.

In April '85, having nothing to do with this case, the problem of metal detectors in the high schools came to court and ended up before me. It turned out that the School District was using metal detectors, contrary to the Student Code of Conduct. The Board had to go through an amendatory process to do this, so they came to me. In April, '86, I approved an amendment allowing this under very restrictive conditions.

You must remember that in the '70s, Judge DeMascio would have simply decreed it. I insisted that the Board hold a hearing. I was very critical of the Board because it did not have proper procedures in place for amending the Code, which they were doing *ad hoc*. The Board held a public hearing, for which they published notice of two days before the hearing. They had to hold a second hearing at my "suggestion." Every time they did something like this I was critical. And, of course, every time I was critical, the newspapers picked it up.

I was modifying School Board behavior, which really had nothing to do with this case. It had to do with a school board which didn't operate very effectively. It was not sensitive to how you go about doing the public's business, and it was not doing things openly.

In May '86, I denied a motion by a group of parents to intervene. The group was organized and represented by Tom Atkins. They wanted to intervene because they said the plaintiffs weren't doing a good job. In denying intervention, I said there could only be one master of a litigation. What I was saying was that no judge in this kind of litigation could deal with two major groups as plaintiffs which were antagonistic to each other and want to achieve or set different goals.

In August '86, after two days of hearings, I approved an amendment to the Student Code to include long-term suspension in grades 9 to 12 as a penalty. I went along with the Detroit Federation of Teachers because the monitor recommended it. I had asked for a recommendation. Then I ordered the Board to include this, and they did it. If they had refused, I don't know what I would have done.

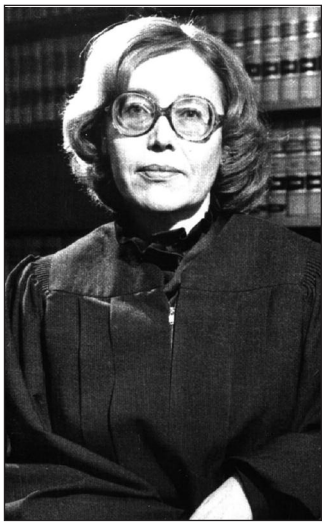
In September '87, the Court of Appeals affirmed the order denying intervention by the outside group. One judge dissented stating that the parents' group who wanted to intervene should have been heard. Had his views prevailed, I would have had chaos, because I would have had one group represented by Grover Hankins as General Counsel of the NAACP, and a second group represented by Tom Atkins, former General Counsel, who was in a fight over his fees with the NAACP. I would have had chaos. Fortunately, two Court of Appeals' judges saw it the correct way.

In July '88, I formally terminated jurisdiction over the reading, counseling, career guidance, bilingual, bicultural education and the school community relations components of the remedial plan. Also, I terminated monitoring. All this was consistent with the 1981 agreement.

In September 1988, I terminated supervision over the vocational education component. There was a technical problem there because the money to build the vocational centers came from the federal government.

The Michigan Attorney General, who was in the case all the way through, did yeoman work. The lawyers for the State Board of Education were superb. They said you must order the School Board to continue the use of these schools for vocational education because if they stop, the State is going to have to give all the money for them back to the federal government. This was because the money for these buildings came from the federal government under a statute which required them to be used for this purpose.

The School Board said, don't worry, we would never do anything like that. I said, then you cannot object to having it in an injunction. They said yes, we do. I said, well, if you object I can't trust you; so I put it in the injunction.



U.S. District Judge Patricia J. Boyle, who was one of the three-judge panel assigned to preside over *Bradley v. Milliken* beginning after Judge DeMascio recused himself in August 1980 and continuing until she resigned from the Court to accept appointment to the Michigan Supreme Court in June 1983.

I did not terminate jurisdiction over the Student Code of Conduct because there was an amendment in process. I went into a snit because I didn't think the Board was being open and aboveboard in how they were amending the Student Code. I was wrong. Subsequently I acknowledged the fact. I said because wisdom comes late is no reason to reject it. If the Board was untrustworthy, I said that the voters can take care of it.

In February '89, I dismissed the case in its entirety. In my order of dismissal I said: "The changing demographics of Detroit have eliminated the evils which formed the basis for the finding of liability [by Judge Roth]. The Detroit school system has achieved unitary status as that term is customarily used in school desegregation cases."

The Detroit Federation of Teachers was very unhappy. It wanted me to continue oversight because it didn't have much faith in the Board. The remnants of the case were petitions for attorney fees, which I denied, and for technical reasons one petitioner had taken an appeal to the Sixth Circuit. Outside of that, the case was over.

Let me relate some observations, not necessarily in order of importance.

Judges Feikens, Boyle and I knew we had to stay out of the courtroom as much as possible, and we should look for some sort of agreement among the parties that was self-executing and eventually close down the case. As I have told you, we saw the Monitoring Commission as antagonistic to the School Board, and the School Board too little involved in certain aspects. Even though the School Board was antagonistic to the Monitoring Commission, they could use the Monitoring Commission as a cover.

The NAACP national office, by the time we got the case in 1980, was losing interest. Its goal was true desegregation, and without a metropolitan remedy, that was simply no longer achievable in Detroit.

The Monitoring Commission was truly interested in the quality of education in Detroit, but its role was limited. The educational components were but a small fraction of the overall educational programs of the School District. Additionally, the Monitoring Commission was not separately represented by counsel. It couldn't formally ask the Court for anything. It could recommend to the Court, and the Court then would have to act *sua sponte*. As I have told you, the Detroit Federation of Teachers' interest was a relatively narrow one: to protect its members and achieve otherwise unobtainable goals.

The community had great confidence in the Court, but little understood that the Court at best was only a catalyst and a mediator, and in addition to focusing public attention on some peccadilloes of the School Board, it could only embarrass the School Board. It is likely that the manner in which I conducted the case had some impact on the recall of four new School Board members.

Adjudication, a court's traditional role, could yield little. The Court of Appeals' decision in September '85 when we gave up the Student Code and School Community Relations Program made no sense. There was no longer any reason for us to exercise jurisdiction over the two components. The NAACP appealed, I believe, because it was concerned about other cases in other courts. The teachers appealed because they wanted the Court to continue.

What was ultimately achieved in *Bradley v. Milliken*? I don't know. Let me give you an

assessment of one black leader in Detroit who followed the case from the beginning. It brought money into the system on a temporary basis that was otherwise not obtainable. This, in his view, was the sole plus of twenty years of litigation.

The minuses? It set back racial integration by confining the remedy to the Detroit city limits. It involved the Court too much and took the heat off the elected School Board for long periods of time. This eventually adversely affected direct citizen participation in School Board affairs.

The recent book, *Hard Judicial Choices,* by Phillip Cooper, suggests *Bradley v. Milliken,* had two important effects. It showed how complicated it is to remedy a segregated school system in a northern state when mixing students is not an option. And, early on, it represented a turning point in Supreme Court jurisprudence. It cautioned district judges the restraint they must exercise in interfering with the normal operations of a public school system.

I'm not sure that this assessment is correct, because with the educational components went a good deal of judicial action. I'm not sure that the Supreme Court was all wrong in *Milliken* in denying a metropolitan remedy on the record it had before it, since the local school districts which would have been involved never really had their day in court. This was due in part to the way Judge Roth conducted the case. I think the plaintiffs tried to do something more, and he resisted.

I'm not a sociologist and not an educator, but I am also not sure that the case really hastened white flight from Detroit by much. I lived in Detroit the first 55 years of my life. Detroit, because of the age of its housing stock and the layout, simply became a less attractive place to live. Those who could afford to move into the new suburban communities and partake of the amenities they offered did so. School environment was a part of that but a small part. The City had aged, and as I say, those that could escape its wrinkles did so, while leaving those who couldn't afford it behind; but not because of *Bradley v. Milliken.*

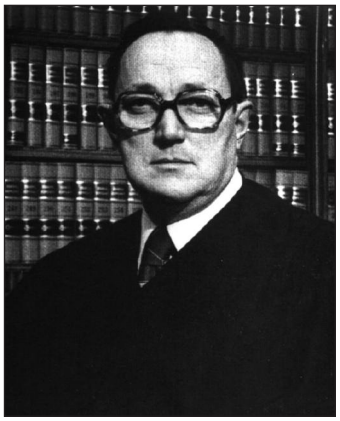
[The following points then emerged from questions asked by members of the class.]

[In response to a question which noted the fact of three white judges running a predominantly black school district, Judge Cohn replied:] I think the black community, by and large, was very supportive of the judges. I don't think there was any resentment in the black community over the fact that there were three white judges. I think that Judge Churchill's comment was a good reason to say why we were turning the running of the Detroit Public Schools back to an elective board.

Let me refer you to Alexis DeToqueville's *Democracy in America.* His most famous quote reads: "It's seldom a political question in the United States that doesn't end up as a judicial question." The Supreme Court in part was political. It was cutting back. On the other hand, they had an easy record on which to decide whether Judge Roth was correct that the whole State was responsible for the segregated practices in Detroit, i.e., housing segregation, etc.

[In response to a question about the role of the judge in complex public litigation like this case, Judge Cohn said:] The *sine qua non* of due process is notice and the opportunity to be heard. I would be a dictator if I didn't listen. Judge DeMascio ordered a Student Code of Conduct. The School Board therefore had no interest in the Student Code. When I told them: you adopt the Student Code and bring it to me for my approval; you work it out and submit it, then we'll see if there are any objections. Now they had an interest in it. Now it's adopted by the School Board. It's reflected in their minutes. They had to debate it; they had to vote on it. Bringing it to me was largely a formality.

[Lastly, Judge Cohn said:] I approved the metal detectors. I said facially they appeared to be constitutional; it all depends on how you use them. The School Board had to hold a public hearing, so people could come and debate and object. The School Board tried to put out notices four days before the hearing. I said that's a lot of nonsense. You've got to tell people two and



U.S. District Judge James P. Churchill, who was assigned to the three-judge panel presiding over *Bradley v. Milliken* in June 1983 when Judge Boyle resigned from the Court. He continued serving until November 1985 when Judge Cohn became the sole judge assigned to the case until its termination in February 1989.

three weeks ahead of time. Give them a chance to get together. This was political, of course, but I don't think there was anything wrong in it. I was engaged in an educational process with the Board. That's why the Detroit Federation of Teachers wanted me to stay in the case. Indeed, I think the NAACP would have been happy if I had stayed around.

We were dealing with problems. For example, the Board wanted to close the Jones school at the end of the school year. The Jones parents came running to us, wanting an order requiring the School Board to reopen the school. We examined the process they had used in closing the school; how they informed the parents; what kind of hearing they held; what kind of notices they sent out. We had a problem once when the School Board couldn't get the buses repaired. We made the State Superintendent bring a bus expert from Grand Rapids to Detroit to show school district personnel how to operate a repair garage.

What kind of role is that for a court? We were the only ones that could do it, and we did it very well. Everybody liked us except the School Board. You know they didn't like us. We were an intrusion. We were very careful in what we did and what moved us. We understood this, but we also knew that it was not a proper role for a judge.

[Editor's note: A fitting way to wrap up this four-part series on Bradley v. Milliken *is to quote the complete text of Judge Cohn's "Final Judgment" dated February 24, 1989:]*

This matter having come before the Court on Defendant, Detroit Board of Education's (Detroit Board) motion, entitled:

DETROIT BOARD OF EDUCATIONS' MOTION TO TERMINATE JURISDICTION AND SUPERVISION OVER STUDENT ASSIGNMENTS, FACULTY ASSIGNMENTS AND CODE OF STUDENT CONDUCT, TO DECLARE THE DETROIT PUBLIC SCHOOLS HAS [*sic*] ACHIEVED UNITARY STATUS, TO VACATE ALL EXISTING ORDERS AND INJUNCTIONS EXCEPT FOR THE VOCATIONAL EDUCATION ORDER OF SEPTEMBER 13, 1988; AND FOR DISMISSAL OF THIS CASE IN ITS ENTIRETY

The Plaintiff class, the State defendants and the Detroit Federation of Teachers, Intervening Defendants, all having contested the motion with written objections, and the Court having heard oral arguments of all parties on December 8, 1988, and the Court having issued its Memorandum of January 11, 1989, granting the Detroit Board's written motion in its entirety, and pursuant to the Memorandum of January 11, 1989,

IT IS ORDERED AND ADJUDGED that the Detroit school system is a "unitary" school system and has eliminated all vestiges of past *de jure* segregation in the Detroit school system.

IT IS FURTHER ORDERED AND ADJUDGED that Court supervision and jurisdiction over the desegregation remedial plan including student assignments, faculty assignments and Code of Student Conduct is terminated.

IT IS FURTHER ORDERED AND ADJUGED that all existing injunctions are vacated except the injunctive portion of the September 13, 1988 order concerning the five (5) Vocational Technical Centers.

IT IS FURTHER ORDERED AND ADJUDGED that this is the final judgment of the Court.

/s/Avern Cohn
UNITED STATES DISTRICT COURT ■

Historical Society in the News

As part of its 100th Commencement, Marygrove College presented the Theresa Maxis Award for Social Justice to Judge John Feikens. The citation reads as follows:

Attorney, judge, visionary thinker, advocate for the common good, relentless pursuer of justice and equity in shared resources, urban leader. We honor you today with the Theresa Maxis Award for Social Justice for the promise you bring to us that complex public policy problems are solvable if we approach them with a mind open to new approaches and collaborative energies.

The Theresa Maxis Award for Social Justice is presented annually to an individual or agency in the metropolitan Detroit area whose activities enhance social justice in our community. No individual better represents this exalted goal than you do. With pride, we acknowledge that your skills, beliefs and principles had their genesis first in the heart of your family, and next at Michigan institutions of higher education including Calvin College, where you received your bachelor of arts degree, and the University of Michigan, where you received your juris doctor degree.

We esteem you as Senior Judge, United States District Court for the Eastern District of Michigan, and recognize your stellar career in the law which has spanned almost forty [*sic*] years, during which your passion was the vigilant stewardship of the public's confidence in its system of laws and government. We honor you for your wise and courageous rulings on behalf of the most vulnerable members of our society, including helping to strike down a state law that allowed people to be committed to mental institutions without a judicial review, ruling that the Michigan branch of the Automobile Association of America discriminated against women in pay, promotions and transfers; and siding with prisoners in suits over inhumane conditions and educational opportunities.

Most of all, we celebrate you for understanding, as do Marygrove College's sponsors, the Sisters, Servants of the Immaculate Heart of Mary, that the concepts of sustainability and social justice are inextricably linked. We cherish your thirty-year-long focus on water as a shared resource critical to life. We deeply appreciate you for using your judicial position as a means of protecting the health and safety of millions of Michigan residents; for mandating that the City of Detroit stand by its commitment to clean water; for forcing Wayne County and a baker's dozen of downriver communities to uphold their assurance to treat sewage properly; for ordering forty-two communities in the Rouge River Watershed, which stretches from Rochester Hills to Canton, to build underground basins to treat storm water and sewage before being discharged into the Rouge; for persuading leaders across metropolitan Detroit to come to terms on water and sewage service to 4.3 million people in 126 communities in eight counties in southeast Michigan.

From your efforts has emerged a national demonstration project that will long be studied as an innovating model for regional cooperation. As attorney, judge, co-chairman of the Michigan Civil Rights Commission, member of the Board of Trustees of New Detroit, Inc., and civic advocate, you have devoted your entire career to making our systems of laws genuinely responsive to the needs of every citizen of this state. You have demonstrated the consistent focus on improving society that is embedded in the very fabric of Marygrove College.

Therefore, Marygrove College proudly recognizes this public servant for the vision, stamina and persistence that leaders need to make a pervasive and positive impact, and bestows the Theresa Maxis Award for Social Justice on the Honorable John Feikens on May 16, 2009.

[Editor's note: Theresa Maxis, after whom this award is named, was born in Baltimore, Maryland in 1810, of a Haitian mother and a British father. At age 18, she helped found the Oblate Sisters of Providence, the first congregation of women religious of color in the world. She was a co-founder of the Sisters, Servants of the Immaculate Heart of Mary, in Monroe, Michigan in 1845.] ■

Editor's note: Beginning with the following article, abridged here because of space considerations, the FBA newsletter has been running occasional articles under the heading "A Half-Century of Chapter History." The full article may be found at https://www.fbamich.org//Newsletters/Spring_2008_-_color.pdf

Leadership 1963: A Most Remarkable Group

By: Brian D. Figot

All hyperbole aside, the Chapter's leadership during its fifth year, 1963-1964, can be characterized as nothing less than the most incredibly talented, dedicated and accomplished assemblage of individuals in the history of the State Bar of Michigan.

Wallace D. Riley, President
William H. Merrill, First Vice President
Jacob L. Keidan, Second Vice President
James Hugh McCormick, Third Vice President
Thomas A. Roach, Secretary
Geraldine B. Ford, Recording Secretary
Glen E. Musselman, Treasurer
Cyril Moscow, Assistant Treasurer
Robert B. Webster, Parlimentarian

Wally Riley: He has been the chairperson of the Michigan State Bar's Young Lawyer's Section (1960-1961), president of the State Bar (1972-1973), president of the State Bar Foundation (1974-1982), president of the American Bar Association (1983-1984), and president of both the Michigan Supreme Court Historical Society and Michigan Historical Center Foundation. He also served on the Attorney Discipline Board from 1999-2002, and chaired the organization from 2000-2002.

Bill Merrill: He was a candidate for Congress in 1966 (he lost), served as Michigan state director of the campaign to elect Robert F. Kennedy to the Presidency, and then influenced the course of American history as the assistant special prosecutor in charge of the investigation of the "White House plumbers' unit led by Richard Nixon's chief domestic aide John Ehrlichman.

Jacob B. Keidan and James Hugh McCormick: Bookends by the backgrounds, both served the legal community and their religious communities with honor and distinction. Keidan was president of the Jewish Federation of Metropolitan Detroit. McCormick was a distinguished alumnus of University of Detroit Jesuit who never stopped giving back to his community.

Tom Roach: Roach has made a difference both as treasurer of the Michigan Democratic Party (1977-1979) and as a long-serving Regent of the University of Michigan, from 1975-1991, and as president of the Alumni Association.

Geraldine Bledsoe Ford: Judge Geraldine Bledsoe Ford was the Chapter's first woman officer, as well as its first African-American officer. She became the first black female in the United States to be elected to a judgeship without the benefit of a prior appointment. She remained on the bench for 33 years until her retirement in 1999. She also was the first black woman Assistant U.S. Attorney for the Eastern District of Michigan, the first to serve as Assistant Corporation Counsel for the City of Detroit and the first black president of the U of M Alumni Association.

Glen E. Musselman: He was a founder of the Warren Symphony Society, a longtime trustee of Bethel College in Mishawaka, Indiana, where he remains a Trustee Emerius, and he was honored last year as a 50-year member of the Michigan State Bar in the same year that the Detroit Chapter celebrated its 50th anniversary. He was one of our first National officers, as a Circuit Vice President.

Cy Moscow: Steve Schulman, Hugh Makens (also a former Chapter treasurer) and Cy Moscow form the triumvirate atop the Michigan Business Corporations Act. However, aside from his more publicized accomplishments, as an early partner at Honigman Miller Schwartz and Cohn, Chair of the State Bar Subcommittee on Business Corporation Act Revision since 1984, and an adjunct professor of law since 1973, he also is a founding member of Community Legal Resources, a joint project of Michigan Legal Services and the Pro Bono Committee of the Business Law Section of the American Bar Association working in conjunction with the Michigan Litigation Assistance Partnership Program.

Robert Webster: He has been a circuit court judge (Oakland County, 1973-1982). He currently serves the legal community as: Director of the American Judicature Society and National Commissioner on Uniform State Laws; a member of the American Law Institute; a Member of the ABA House of Delegates; co-chair of the State Bar Committee on Courts in the 21st Century, Judicial Qualifications Committee; Chair of the State Officers Compensation Commission; and a Fellow, American College of Trial Lawyers. ■

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Annual membership dues:
(Complimentary to Federal Bar Association members)

☐ Professional/Member	$ 25.00
☐ Sustaining/Patron	$100.00 *or more*

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Questionnaire

We would like to know about your interests and skills. Please fill in this questionnaire and mail it with your membership fee.

Legal practice area *(if applicable):*

_____

Special interests in the field of legal history:

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Yes, I would like to assist and/or actively participate in the following of the Society's activities *(Check as many as may apply):*

- ☐ Writing articles for the Society newsletter
- ☐ Conference planning
- ☐ Oral history
- ☐ Research in special topics in legal history
- ☐ Fund development for the Society
- ☐ Membership recruitment
- ☐ Archival preservation
- ☐ Exhibit preparation
- ☐ Educational programs
- ☐ Other *(please describe):* _____

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Suggestions for programs or projects:

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This Form May Be Duplicated And Submitted With Your Membership Fee

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